

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
CASE NUMBER 08CV1722

GD DEAL HOLDINGS, LLC, , PLAINTIFF

V.

SURINDER MULTANI; ABBE PROPERTIES, LLC;
SAPPHIRE SUPPLY, LLC; JGG INVESTMENTS, LLC;
ABBE CAPITAL AND LEASING, LLC;
ABBE MANAGEMENT GROUP, LLC;
FIFTH THIRD BANK; CITIBANK;
VENDOR CAPITAL GROUP; BABAJIPS,LLC;
CAPITAL ACCESS & INVESTMENTS, LLC;
PETROZONE PETROLEUM II, INC.;
G & S PORTAGE, INC.; SAFANPREET MULTANI; AND
SURINDER MULTANI, IN HIS CAPACITY AS TRUSTEE
FOR GURPRIYA KAUR MULTANI IRREVOCABLE TRUST,
GURPAP SINGH MULTANI IRREVOCABLE TRUST, AND
JAPVI SINGH MULTANI IRREVOCABLE TRUST, DEFENDANTS.

MOTION TO RECONSIDER ORDER OF SALE

Defendants, Surinder Multani, and Safanpreet Multani, by their attorney, James O. Stola, respectfully move this Court to reconsider the Order for Sale entered herein on August 7, 2008. In support thereof, Defendants state as follows:

1. This Court entered an Order of Sale on August 7, 2008, ordering the sale of the real estate commonly known as 24 Bright Ridge Drive, Schaumburg, Illinois, and for the sale of unspecified personal property of Defendant Surinder Multani located at 24 Bright Ridge Drive, Schaumburg, Illinois.

2. Defendant Surinder Multani and his wife Defendant Safanpreet Multani are the owners of the property commonly known as 24 Bright Ridge Drive, Schaumburg, Illinois, as Tenants by then Entirety. (A copy of the Deed to 24 Bright Ridge Drive, Schaumburg, Illinois, is attached as Exhibit "A" and by this reference made part of this Motion.)

2. Defendant Surinder Multani and his wife Defendant Safanpreet Multani live at 24 Bright Ridge Drive, Schaumburg, Illinois as their main and only domicile which is claimed as Homestead

by both Defendant Surinder Multani and Defendant Safanpreet Multani.

4. The underlying judgment in the above matter is only against Surinder Multani and not his wife Safranpreet Multani.

5. 735 ILCS 5/12-112 Illinois law provides as follows:

Sec. 12-112. What liable to enforcement. All the lands, tenements, real estate, goods and chattels (except such as is by law declared to be exempt) of every person against whom any judgment has been or shall be hereafter entered in any court, for any debt, damages, costs, or other sum of money, shall be liable to be sold upon such judgment. Any real property, or any beneficial interest in a land trust, held in tenancy by the entirety shall not be liable to be sold upon judgment entered on or after October 1, 1990 against only one of the tenants, except if the property was transferred into tenancy by the entirety with the sole intent to avoid the payment of debts existing at the time of the transfer beyond the transferor's ability to pay those debts as they become due. However, any income from such property shall be subject to garnishment as provided in Part 7 of this Article XII, whether judgment has been entered against one or both of the tenants. If the court authorizes the piercing of the ownership veil pursuant to Section 505 of the Illinois Marriage and Dissolution of Marriage Act or Section 15 of the Illinois Parentage Act of 1984, any assets determined to be those of the non-custodial parent, although not held in name of the non-custodial parent, shall be subject to attachment or other provisional remedy in accordance with the procedure prescribed by this Code. The court may not authorize attachment of property or any other provisional remedy under this paragraph unless it has obtained jurisdiction over the entity holding title to the property by proper service on that entity. With respect to assets which are real property, no order entered as described in this paragraph shall affect the rights of bona fide purchasers, mortgagees, judgment creditors, or other lien holders who acquire their interests in the property prior to the time a notice of lis pendens pursuant to this Code or a copy of the order is placed of record in the office of the recorder of deeds for the county in which the real property is located.

6. Plaintiff in its Reply to Defendants' Response to the Motion for Order of Sale, raised the issue that the Tenancy by the Entirety established in the deed was compromised to joint tenancy by the subsequent acquisition of other real estate by the Multanis wherein a term in the recorded mortgage on property indicates that the property is to be occupied by the Multanis within 60 days.

7. The Multanis have continued to maintain 24 Bright Ridge Drive, Schaumburg, Illinois, as their primary and sole homestead domicile and have continued to live in the house.

8. As property held in tenancy by the entirety, the property commonly known as 24 Bright

Ridge Drive, Schaumburg, Illinois, is not subject to the judgment in favor of Plaintiff in that said judgment only lies against Defendant Surinder Multani and not his wife Defendant Safranpreet Multani.

7. In addition to the real estate, the much of the personal property in the house is owned by maintained by Safranpreet Multani and that of Surinder Multani is subject to the exemptions provided by 735 ILCS 5/12-1001, *et seq.*

Wherefore, Defendant Surinder Multani and his wife Defendant Safranpreet Multani pray that this court to reconsider the Order of Sale entered by this court on August 7, 2008, and modify said order consistent with Illinois law and the above.

Respectfully submitted,

/s/ James O. Stola

JAMES O. STOLA

CERTIFICATE OF SERVICE

On the 19th day of August, 2008, true and correct copies of the foregoing Motion for Leave to File Appearance and Answer was delivered via electronic transmission through CM/ECF to:

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s/James O. Stola

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